



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Suzanne Lee Chan, Vice Mayor
Anu Natarajan
Bill Harrison
Dominic Dutra

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Mark Danaj, Assistant City Manager

Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Susan Gauthier, Acting City Clerk
Annabell Holland, Community Services Director
Norm Hughes, City Engineer
Bruce Martin, Fire Chief
Jim Pierson, Public Works Director
Jeff Schwob, Interim Community Dev. Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Brian Stott, Human Resources Director
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

**NOTICE AND AGENDA OF SPECIAL MEETING
CLOSED SESSION
CITY OF FREMONT**

DATE: Tuesday, July 12, 2011

TIME: 6:00 p.m.

LOCATION: Fremont Room, 3300 Capitol Avenue, Fremont-

TELECONFERENCE NOTICE

*Pursuant to Government Code Section 54953, Subdivision (b), the following Council meeting will include teleconference participation by Councilmember Natarajan from:
3 ShangriLa, 27A Carmichael Road, Mumbai 4000026, India.*

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT:

Any person desiring to speak on an item listed on this Notice, may do so now. The Mayor will limit the length of your presentation and each speaker may only speak once on each item.

- 1) **CONFERENCE WITH LABOR NEGOTIATOR:** The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Mark Danaj, Assistant City Manager; Brian Stott, Human Resources Director; Designated Representative, Bill Avery; Harvey Levine, City Attorney and Art Hartinger, Special Counsel as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Association of Management Employees
Fremont Association of City Employees
Operating Engineers
Teamsters Local 856
Fremont Police Association
Professional Engineers and Technicians Association

- 2) **CONFERENCE WITH LABOR NEGOTIATOR:** The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Mark Danaj, Assistant City Manager; Brian Stott, Human Resources Director; Designated Representative, Bill Avery; Harvey Levine, City Attorney and Art Hartinger, Special Counsel as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Fire Fighters
Fremont Fire Fighters Battalion Chiefs

This Special Meeting is being called by Mayor Wasserman.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JULY 12, 2011
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

TELECONFERENCE NOTICE

Pursuant to Government Code Section 54953, Subdivision (b), the following Council meeting will include teleconference participation by Councilmember Natarajan from 5 Shangrila, Carmichael Road, Mumbai India 4000026

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Regular Meeting and Work Session of February 16, 2010, the Regular Meeting of February 16, 2010, the Joint Council/Redevelopment Agency Special Meeting of February 23, 2010, the Regular Meeting of February 23, 2010, the Regular Meeting of March 9, 2010, the Special and Regular Meetings of April 6, 2010, the Special Meeting of April 20, 2010, the Special and Regular Meetings of April 27, 2010, the Regular Meeting of May 4, 2010, the Regular Meeting May 11, 2010, the Joint Council/Redevelopment Agency Work Session of May 18, 2010, the Regular Meeting of May 25, 2010, the Regular Meeting of June 1, 2010, the Special Meeting of June 23, 2011, the Special and Regular Meetings of June 28, 2011, the Special Meeting of June 30, 2011, and the Special Meeting of July 5, 2011*

- 2.3 *Second Reading and Adoption of an Ordinance of the City of Fremont Amending Various Provisions of the Purchasing Code as Set Forth in Title II, Chapter 9, Sections 2-9100 through 2-9800 of the Fremont Municipal Code*

RECOMMENDATION: Adopt ordinance.

- 2.4 *Second Reading and Adoption of an Ordinance of the City of Fremont, Amending Fremont Municipal Code Sections 2-1100 and 2-1101.1 Relating to City Council Regular Meetings Schedules*

RECOMMENDATION: Adopt ordinance.

- 2.5 *“FIRST 5 ALAMEDA COUNTY” CONTRACT AUTHORIZATION
Authorization for City Manager to Execute a Two-Year Contract for Services Funded through “First 5 Alameda County”*

Contact Person:

<i>Name:</i>	<i>Iris Preece</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Youth and Family Services Administrator</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2128</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>ipreece@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or designee to execute a two-year contract with First Five Alameda County for \$120,000.

- 2.6 *AGREEMENT WITH THE COUNTY OF ALAMEDA REGARDING COLLECTION OF TAXES AND ASSESSMENTS FOR FISCAL YEAR 2011/12
Approval of Certification and Mutual Indemnification Agreement with the County of Alameda Regarding Collection of Taxes and Assessments on the Fiscal Year 2011/12 Secured Property Tax Bill*

Contact Person:

<i>Name:</i>	<i>Joan A. Borger</i>	<i>Harvey E. Levine</i>
<i>Title:</i>	<i>Assistant City Attorney</i>	<i>City Attorney</i>
<i>Dept.:</i>	<i>City Attorney’s Office</i>	<i>City Attorney’s Office</i>
<i>Phone:</i>	<i>510-284-4030</i>	<i>510-284-4030</i>
<i>E-Mail:</i>	<i>jborger@fremont.gov</i>	<i>hlevine@fremont.gov</i>

RECOMMENDATION: Adopt resolution approving the certification and mutual indemnification agreement with the County of Alameda, and authorize the City Attorney to sign the agreement on behalf of the City.

2.7 **APPROVAL OF PERFORMANCE SPECIFICATIONS, AND AWARD OF CONTRACT FOR THE FIRE ALARM UPGRADES AT FIVE PUBLIC BUILDINGS**
Approval of Performance Specifications, and Award of Contract for Design and Construction of Fire Alarm Upgrades at Five Public Buildings (City Project No. PWC 8651)

Contact Person:

<i>Name:</i>	<i>Martha S. Martinez</i>	<i>Robert Kalkbrenner</i>
<i>Title:</i>	<i>Project Manager</i>	<i>Civic Facilities Development Manager</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4727</i>	<i>510-494-4428</i>
<i>E-Mail:</i>	<i>mamartinez@fremont.gov</i>	<i>rkalkbrenner@fremont.gov</i>

RECOMMENDATION:

1. *Approve the performance specifications for the Fire Alarm Upgrades at Five Public Buildings, City Project No. 8651 (PWC).*
2. *Award a contract for the Fire Alarm Upgrades at Five Public Buildings, City Projects No. 8651 (PWC), to Tri-Signal Integration, Inc., in the amount of \$158,448; and authorize the City Manager, or designee, to execute the contract.*

2.8 **APPROVAL OF PLANS AND SPECIFICATIONS, AND AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE STORAGE BUILDING AT FIRE STATION #6**
Approval of Plans and Specifications, and Award of Contract for Storage Building at Fire Stations # 6 (City Project No. PWC 8741), APN # 501-521-019

Contact Person:

<i>Name:</i>	<i>Michael Ma</i>	<i>Robert Kalkbrenner</i>
<i>Title:</i>	<i>Project Manager</i>	<i>Civic Facilities Development Manager</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4750</i>	<i>510-494-4428</i>
<i>E-Mail:</i>	<i>mma@fremont.gov</i>	<i>rkalkbrenner@fremont.gov</i>

RECOMMENDATION:

1. *Approve the plans and specifications for the Storage Building at Fire Station #6, City Project No. 8741 (PWC).*
2. *Waive the minor irregularity in the bid and award a contract for the construction for the Storage Building at Fire Station #6, City Project No. 8741 (PWC), to Calstate Construction, in the amount of \$477,000; and authorize the City Manager, or designee, to execute the contract.*

2.9 **AMENDMENT TO VB GOLF IV, LLC LEASE**
Amendment to the City of Fremont lease with VB Golf IV, LLC for the operation of the Fremont Park Golf Center

Contact Person:

<i>Name:</i>	<i>Laurie Rogers</i>	<i>Annabell Holland</i>
<i>Title:</i>	<i>Recreation Superintendent II</i>	<i>Director</i>
<i>Dept.:</i>	<i>Community Services</i>	<i>Community Services</i>
<i>Phone:</i>	<i>(510) 494-4332</i>	<i>(510) 494-4329</i>
<i>E-Mail:</i>	<i>lr Rogers@fremont.gov</i>	<i>aholland@fremont.gov</i>

RECOMMENDATION: Amend the VB Golf IV, LLC lease to revise the current rental fee structure for the Fremont Park Golf Center. The new rental fee structure would become effective July 15, 2011. Further, staff recommends the City Council approve the option for an annual closure of the golf course only for the period of November 1 through May 1.

2.10 ANIMAL FANCIER'S PERMIT APPEAL TO COUNCIL

Appeal of an Animal Fancier's permit (Bees-Chickens) denial in accordance with Fremont Municipal Code Title 1, Chapter 5

Contact Person:

<i>Name:</i>	<i>Howard Russell #1991</i>	<i>Craig T. Steckler</i>
<i>Title:</i>	<i>Police Sergeant</i>	<i>Chief of Police</i>
	<i>Animal Services Administrator</i>	
<i>Dept.:</i>	<i>Police Department</i>	<i>Police Department</i>
<i>Phone:</i>	<i>510-790-6646</i>	<i>510-790-6810</i>
<i>E-Mail:</i>	<i>hrussell@fremont.gov</i>	<i>csteckler@fremont.gov</i>

RECOMMENDATION: Postpone this item to September 20, 2011 at the request of the appellant.

3. CEREMONIAL ITEMS

- 3.1 Resolution: Honoring Citizen Barbara Lee Upon Her Heroic Actions in Saving the Life of a Fremont Resident

4. PUBLIC COMMUNICATIONS

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

Consideration of Ordinance to “Opt in” to an Alternative Voluntary Redevelopment Program under ABx1 27, the Voluntary Program Act

Contact Person:

Name:	Elisa Tierney	Harriet Commons
Title:	Redevelopment Agency Director	Director
Dept.:	Community Development	Finance
Phone:	510-494-4501	510-284-4010
E-Mail:	etierney@fremont.gov	hcommons@fremont.gov

RECOMMENDATION: Introduce an ordinance to elect and implement participation by the City of Fremont and the Redevelopment Agency of the City of Fremont in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of the California Community Redevelopment Law.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



***2.3 Second Reading and Adoption of an Ordinance of the City of Fremont Amending Various Provisions of the Purchasing Code as Set Forth in Title II, Chapter 9, Sections 2-9100 through 2-9800 of the Fremont Municipal Code**

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Adopt ordinance.

***2.4 Second Reading and Adoption of an Ordinance of the City of Fremont, Amending Fremont Municipal Code Sections 2-1100 and 2-1101.1 Relating to City Council Regular Meetings Schedules**

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Adopt ordinance.

***2.5 “FIRST 5 ALAMEDA COUNTY” CONTRACT AUTHORIZATION**

Authorization for City Manager to Execute a Two-Year Contract for Services Funded through “First 5 Alameda County”

Contact Person:

Name:	Iris Preece	Suzanne Shenfil
Title:	Youth and Family Services Administrator	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2128	510-574-2051
E-Mail:	ipreece@fremont.gov	sshenfil@fremont.gov

Executive Summary: First 5 Alameda County (“First 5”) has approved continued funding of \$120,000 to the City for 24 months, July 1, 2011-June 30, 2013. Funds are to be used by the Youth and Family Services Division of the Human Services Department to continue the Infant Toddler Program (ITP) in providing mental health services to children age five years or younger who do not have health insurance coverage, and for conducting the “Preschool Parent Academy” in partnership with Fremont Unified School District. Staff recommends that the City Council authorize the City Manager or his designee to execute the funding agreement with First 5 Alameda County.

BACKGROUND: First 5 Alameda County (“First 5”) is authorized by the California Children and Families First Act of 1998 (Proposition 10, the tobacco tax initiative) to expend monies that expand or enhance existing programs or to initiate new services and programs benefitting children ages 0-5. First 5 allocates funds for community partnerships through the Community Grants Initiative based on priorities within its Every Child Counts Strategic Plan for FY 2009-13.

First 5 has awarded funding to the City for the Infant Toddler Program since FY 2001/02 to develop and strengthen early childhood mental health services in the Fremont, Newark and Union City. Over the past nine years, the First 5 funding has enabled the City to provide mental health and other supportive services for over 500 families of children less than five years of age. First 5’s most recent (FY2010/11) grant was used to enhance the Infant Toddler Program’s ability to conduct parent education with low-income, preschool parents, while continuing to provide early mental health services for children who are not insured. City staff partnered with staff from Fremont Unified School District’s Preschool in designing the “Preschool Parent Academy,” a seven-week course that educates parents about child development and effective parenting skills for preschool children. Through this funding, staff conducted two sessions of the Academy at a time: one in English and one in Spanish. Altogether, 172 parents (73 English speaking and 99 Spanish speaking) participated. Parents have been very positive about the Academy. The pre and post course survey used to measure course outcomes showed that ninety percent of parents gained new knowledge about their children’s development and new skills for parenting. Through the partnership with FUSD, staff was able to offer enriched child care that included homework assistance.

DISCUSSION/ANALYSIS: The First 5 grant continues funding for the Infant Toddler programs for two more years, and there is continued need for the Preschool School Parent Academy as FUSD continues to operate state funded preschool classes for children from low incomes families. Many of the preschool parents are new to the U.S., and 74% speak a language other than English at home. These

young parents, new to this community, often lack family and friends to help teach them about the first years of parenting. However, the new First 5 grant is 20% less than in previous years. As a result, the Academy will continue to be held in both English and Spanish, but less frequently each year. Existing staff counselors and FUSD preschool teachers will co-teach the seven-week course.

FISCAL IMPACT: This award of \$120,000 continues First 5 funding for the two-year period from July 1, 2011 – June 30, 2013. The 20% reduction in funding is being managed by offering the course less frequently each year. In FY 2011/12, \$42,553 is budgeted for existing City positions, and \$9,030 is budgeted for the contract preschool instructors and child care. In FY 2012/13, \$43,830 is budgeted for City staff, \$8,970 for the contract preschool instructors and child care. The FY 2011/12 amount is already included in the adopted budget and no additional appropriation is needed. The FY 2012/13 amount will be included in the proposed budget for next fiscal year. Most of the funds, \$104,383, will be used to pay for personnel. The grant budget includes \$12,857 for city-wide overhead costs and \$2,760 for supplies.

ENVIRONMENTAL REVIEW: None

ENCLOSURE: None.

RECOMMENDATION: Authorize the City Manager or designee to execute a two-year contract with First Five Alameda County for \$120,000.

***2.6 AGREEMENT WITH THE COUNTY OF ALAMEDA REGARDING COLLECTION OF TAXES AND ASSESSMENTS FOR FISCAL YEAR 2011/12**

Approval of Certification and Mutual Indemnification Agreement with the County of Alameda Regarding Collection of Taxes and Assessments on the Fiscal Year 2011/12 Secured Property Tax Bill

Contact Person:

Name:	Joan A. Borger	Harvey E. Levine
Title:	Assistant City Attorney	City Attorney
Dept.:	City Attorney's Office	City Attorney's Office
Phone:	510-284-4030	510-284-4030
E-Mail:	Jborger@fremont.gov	Hlevine@fremont.gov

Executive Summary: Each fiscal year, the City transmits to the County of Alameda a list of assessments and taxes which the County collects on behalf of the City. For fiscal year 2011/12, the City will include assessments for all local improvement districts, all landscape maintenance districts, the clean water protection fee, the paramedic tax, and the Fire Safety General Obligation Bond Tax. The City is responsible for determining the amount of each assessment or tax in accordance with applicable laws, including the requirements of Proposition 218 (which added Articles XIIC and XIID to the California Constitution).

In order for the County to collect the assessments or taxes on behalf of the City, the County requires the City to sign a "Certification and Mutual Indemnification Agreement" by which the City agrees to protect the County from any legal action based on the City's failure to comply with the provisions added by Proposition 218. In return, the County agrees to collect the assessments and taxes on behalf of the City and the County protects the City from any legal action based on the County's sole negligence in assessing, distributing, or collecting the assessments or taxes.

ENCLOSURE: [Draft Resolution](#)

RECOMMENDATION: Adopt resolution approving the certification and mutual indemnification agreement with the County of Alameda, and authorize the City Attorney to sign the agreement on behalf of the City.

***2.7 APPROVAL OF PERFORMANCE SPECIFICATIONS, AND AWARD OF CONTRACT FOR THE FIRE ALARM UPGRADES AT FIVE PUBLIC BUILDINGS**

Approval of Performance Specifications, and Award of Contract for Design and Construction of Fire Alarm Upgrades at Five Public Buildings (City Project No. PWC 8651)

Contact Person:

Name: Martha S. Martinez

Title: Project Manager

Dept.: Public Works

Phone: 510-494-4727

E-Mail: mamartinez@fremont.gov

Robert Kalkbrenner

Civic Facilities Development Manager

Public Works

510-494-4428

rkalkbrenner@fremont.gov

Executive Summary: The purpose of this report is to recommend the City Council approve the performance specifications and award a construction contract, in the amount of \$158,440.00 to Tri-Signal Integration, Inc., the lowest responsive and responsible bidder for the Fire Alarm Upgrades at the following five public buildings under City Project No. 8651:

1. Central Park Fabbri Field Snack Bar, 1110 Stevenson Boulevard
2. Centerville Park Community Center, 3355 Country Drive
3. Cultural Arts Commission Building, 3375 Country Drive
4. Los Cerritos Community Center, 3377 Alder Avenue
5. Museum of Local History, 190 Anza Street

BACKGROUND: The City of Fremont owns 110 buildings. Of these buildings, 35, because of their use or type, currently have analog fire alarm equipment. This equipment will be replaced with digital devices and will incorporate UL Central Station Monitoring to voluntarily meet the City's ordinance. The fire alarm upgrades will be phased-in over the next several years. The current estimate of probable costs is \$1,020,000. The fire alarm upgrade project was first approved in the CIP in July 2007, appropriating an initial amount of \$200,000 to begin funding the system upgrades. This was followed by CIP appropriations of \$50,000 in FY 2009/10 and \$50,000 in FY 2010/11. The most recent CIP, adopted by Council on June 14, 2011, plans an appropriation of \$0 additional funds for FY 2011/12, \$120,000 for FY 2012/13, and programs an additional \$120,000 in FY 2013/14. See the initial Project Phasing Table below. Staff will continue to seek additional funding in future CIPs until the upgrades have been completed.

Project Phasing Table

Phasing	Appropriations & Projected Expenditures		
	FY 2011 / 12	FY 2012 / 13	FY 2013 /14
Current / Carryover Funding	\$286,000	\$ 86,000	\$ 6,000
Plus New Funding	+ \$ 0	+ \$120,000	+ \$120,000
Funds Available	= \$286,000	= \$206,000	= \$126,000
# of Projects to be done	5	5	3
\$ expected projects to cost	\$200,000	\$200,000	\$120,000
Remaining Funds to be carried forward	\$ 86,000	\$ 6,000	\$ 6,000

PROJECT DESCRIPTION: This project includes the upgrade of fire alarm detection, alerting, and transmission equipment and all other auxiliary work described in the documents as well as the processes and documentation for five existing City of Fremont public buildings. This is the first group of buildings to have their systems upgraded as part of the CIP project.

CONTRACT DURATION: The contract documents stipulate that the work is to be performed and substantially completed in 120 calendar days.

DISCUSSION: The construction bid documents were advertised in the Tri-City Voice on May 17, 2011 and May 24, 2011. The bid documents were also distributed to five builders' exchanges and plan rooms. The engineer's estimate is \$200,000. One bid was received and opened on June 14, 2011. The bidder with its respective bid amount is shown below.

Contractor	Base Bid Total	Rank
Tri-Signal Integration, Inc.	\$158,448	1

The lowest responsible bidder, Tri-Signal Integration, Inc., submitted a responsive base bid in the amount of \$158,448 and all required documentation. The firm is experienced in this type of work.

BUDGET: The overall budget totals \$1,020,000 with appropriations of \$420,000 through FY 2011/12. This budget includes estimated soft costs, construction costs, and contingencies. This phase of the project budget totals \$200,000.

APPROPRIATIONS:

Funds appropriated to date to PWC8651 for this project	\$300,000
Funds transferred to PWC8644 for Tri-City Volunteer Fire Alarm Upgrade	(13,404)
Funds Spent to Date	<u>(\$68,669)</u>
Total Project Budget	\$218,927

ENVIRONMENTAL IMPACT: This project is categorically exempt under Section 15302(c) of the California Environmental Quality Act, as the minor alteration of existing facilities.

DESIGN CONSULTANT: Roy Associates (Mechanical, Electrical, & Plumbing)

ENCLOSURES: None.

RECOMMENDATION:

1. Approve the performance specifications for the Fire Alarm Upgrades at Five Public Buildings, City Project No. 8651 (PWC).
2. Award a contract for the Fire Alarm Upgrades at Five Public Buildings, City Projects No. 8651 (PWC), to Tri-Signal Integration, Inc., in the amount of \$158,448; and authorize the City Manager, or designee, to execute the contract.

***2.8 APPROVAL OF PLANS AND SPECIFICATIONS, AND AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE STORAGE BUILDING AT FIRE STATION #6**
Approval of Plans and Specifications, and Award of Contract for Storage Building at Fire Stations # 6 (City Project No. PWC 8741), APN # 501-521-019

Contact Person:

Name: Michael Ma
Title: Project Manager
Dept.: Public Works
Phone: 510-494-4750
E-Mail: mma@fremont.gov

Robert Kalkbrenner
Civic Facilities Development Manager
Public Works
510-494-4428
rkalkbrenner@fremont.gov

Executive Summary: The purpose of this report is to recommend the City Council approve the plans and specifications, waive a minor irregularity and award a construction contract, in the amount of \$477,000 to Cal State Construction, Inc., the lowest responsive and responsible bidder for the construction of the new Storage Building at Fire Station #6 (City Project No. 8741), located at 4355 Central Avenue.

BACKGROUND: The Fire Storage Facility at Fremont Fire Station # 6 is part of the \$51 million voter approved Measure R Fire Safety Bond of 2002 calling for fire facility seismic performance improvements and building renovation. The bond measure calls for seismic retrofitting and renovating seven of the ten existing fire stations, building three new fire stations to replace existing deficient facilities, and constructing public safety training facilities. Renovations planned in the bond measure included providing sufficient indoor parking storage for all of the fire department apparatus.

The intent of this project is to improve fire department operations by providing sufficient enclosed parking to protect and maintain the operating fire apparatus vehicles for maximum operating lives. The Fremont Fire Department has 47 pieces of apparatus at this time, and dedicated indoor parking for 33 of these pieces of equipment at fire stations and their storage buildings. Five more spaces were added when the two storage buildings at Fire Stations #7 and #10 were built in 2006. The new storage building at Fire Station #6 will add two additional vehicle storage places. In addition, the new storage building will provide secured storage for EMS equipment and supplies. The use of storage buildings in lieu of adding additional fire station bays is a cost effective approach given that storage buildings cost approximately \$150 per square foot compared to essential services construction standards cost of approximately \$400 per square foot.

On April 26, 2011, the City Council rejected all bids and authorized staff to rebid this project, due to a clerical error caused by ARC, the City's contracted blue print company.

PROJECT DESCRIPTION: The project involves the construction of a pre-engineered storage building at Fire Station # 6 to house two reserve fire apparatus in a 4,220 (including mezzanine storage) square foot facility. The new structure will be built in the rear yard of the fire station.

The project is more specifically defined in the contract documents, but generally includes the following items of work:

- Pre-engineered metal building with prefabricated wall panels and standing seam roof.
- Dormers on roof and stucco wall finish.
- Pre-engineered metal mezzanines with stairs and railings to maximize storage usage.
- High ceiling clearance for fire apparatus.
- 20+ year warranty on pre-engineered wall and roof.
- Installing fire sprinklers and a fire alarm system to the building to meet the Fire Code
- Recycling or re-use of a minimum of 50%, and a goal of 75%, of the construction debris by weight

CONTRACT DURATION: The contract documents stipulate that the work is to be performed and substantially completed in 210-calendar days.

Discussion: The construction bid documents were advertised in the Tri-City Voice on May 17, 2011 and May 24, 2011. The bid documents were also distributed to eight builders' exchanges and plan rooms. The engineer's estimate is \$680,000. Thirteen bids were received and opened on June 14, 2011. The bids ranged from \$477,000 to \$798,000. The bidders with their respective bid amounts are shown below.

Contractor	Base Bid Total	Rank
Calstate Construction, Inc.	\$477,000	1
Pacific-Mountain Contractors of California, Inc.	\$503,450	2
Ron Paris Construction Co., Inc.	\$513,210	3
ICC General Contractors, Inc.	\$516,412	4
Diede Construction, Inc.	\$522,021	5
Aztec Consultants, Inc.	\$524,996	6
BCI Builders, Inc.	\$542,800	7
J. H. Fitzmaurice, Inc.	\$579,700	8
D. G. Granade, Inc.	\$666,056	9
C. F. Contracting	\$798,000	10

The lowest responsible bidder, Cal State Construction, Inc., submitted a responsive base bid in the amount of \$477,000 and all required documentation. The firm is experienced in this type of work.

BID PROTEST: A bid protest to the proposed award to Calstate Construction was received from the second lowest bidder, Pacific Mountain Contractors of California. Pacific Mountain argues that Calstate's bid should be rejected as non-responsive because Calstate did not fill in the bid bond amount on the City provided form in the bid packet. Calstate's bid does include a bid bond with the required 10% of the bid amount and they merely forgot to fill in the dollar amount on the form. Staff recommends that Council waive this defect as a minor irregularity and award the contract to Calstate Construction.

As a general rule, to be responsive, the bid must conform to all the requirements of the bid documents. However, a bid that does not strictly conform to the bid specifications may be accepted if the deviation could not have affected the price of the bid or resulted in an advantage not allowed to the other bidders. Here, the failure to fill in the amount of the bid bond would not have affected the amount of the bid as it does not relate to items of work. Nor does waiver of the defect result in an advantage to Calstate not granted to the other bidders. This irregularity does not constitute a clerical mistake that would have allowed Calstate to withdraw its bid without forfeiting its bid bond. Additionally, the amount of the bid bond can be ascertained from the bid documents themselves and the enforceability of the bid bond is not altered.

Staff recommends that Council waive this minor irregularity in Calstate Construction's bid and award the contract to Calstate Construction as the lowest responsive and responsible bidder.

FISCAL IMPACT: The project budget totals \$734,000. This budget includes estimated soft costs, construction costs, site clean-up costs, and contingencies. This amount is funded by amounts appropriated to PWC 8741, in the amount of \$734,000, from the future sale of excess land at Fire Station #6.

APPROPRIATIONS:

Funds Appropriated to date to PWC8741 for this project
(from potential sale of land at Fire St. #6

\$734,000

Total Project Budget

\$734,000

ENVIRONMENTAL IMPACT: This project is categorically exempt under Section 15302(c) of the California Environmental Quality Act.

DESIGN CONSULTANT: Roy Associates (Mechanical, Electrical, & Plumbing)

ENCLOSURES:

- [Fire Station #6 storage site and floor plans with exterior elevations from the project contract documents](#)
- [Bid protest from Pacific Mountain Contractors of California, dated June 14, 2011](#)
- [Response to Pacific Mountain's bid protest from Calstate Construction, dated June 27, 2011](#)

RECOMMENDATION:

1. Approve the plans and specifications for the Storage Building at Fire Station #6, City Project No. 8741 (PWC).
2. Waive the minor irregularity in the bid and award a contract for the construction for the Storage Building at Fire Station #6, City Project No. 8741 (PWC), to Calstate Construction, in the amount of \$477,000; and authorize the City Manager, or designee, to execute the contract.

***2.9 AMENDMENT TO VB GOLF IV, LLC LEASE**

Amendment to the City of Fremont lease with VB Golf IV, LLC for the operation of the Fremont Park Golf Center

Contact Person:

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Dept.:	Community Services	Community Services
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Executive Summary: This item is before the City Council to consider amending the City of Fremont lease with VB Golf IV, LCC to revise the existing rental fee structure and operating hours of the Fremont Park Golf Center.

BACKGROUND: VB Golf IV, LLC (VB Golf) has been operating the Fremont Park Golf Center since 2001. The 54-acre site includes a nine-hole par 33 executive length golf course, driving range, clubhouse and maintenance facility. They have maintained a beautiful course, partnered with the City on many programs, and have invested to upgrade both the driving range and the golf course. Over the last two years, staff has had several discussions with VB Golf regarding the Golf center operations, their desire to sell the business and the challenges faced in securing a buyer based on their lack of profitability, and the existing rent structure.

In their ten years of operation, 2002 and 2003 were basically their only profitable years (Exhibit A). Although they did not have a net operating loss in 2006 and 2007, the net profit was nominal and disappointing after investing \$1 million into the Center to soften the course and upgrade the driving range. Despite careful management and economies of scale achieved through VB Golf's operation of three other facilities in the Bay Area, 2011 Golf Center revenues are projected to be under \$850,000, and the 2011 rent expense is approximately \$209,000. VB Golf has stated this is unsustainable and that they can no longer operate under the current rent structure and are in danger of defaulting on their lease.

Staff is recommending the City Council amend the lease with VB Golf to revise the rental fee structure and operating season for the Golf Center.

DISCUSSION/ANALYSIS: In 2001, VB Golf assumed the lease of the previous owners including the rent provisions of \$10,000 per month from June 1, 2000 to May 31, 2003, and \$15,000 per month from June 1, 2003 until the end of the term in 2024, with an annual Consumer Price Index (CPI) inflator commencing September 1, 2004. In addition, if gross revenues were to exceed \$1.8 million, the following percentages would be paid to the City in addition to the base rent: 11% from 2008-2013, and 12% from 2014 to end of term.

Over the last seven years, the CPI has outpaced revenue growth at the Golf Center. The rent in 2004 was \$180,000, and it is now \$208,968. In 2004, gross revenues totaled \$925,337 and rent was 19% of revenue. In 2010, gross revenues were \$860,234 with rent at approximately 24% of revenue.

In 2005, VB Golf invested over \$1 million in capital improvements to the golf course and driving range. They re-graded the fairways, improved the greens and tees, and softened the course per customer demand. The driving range was also upgraded with the addition of a shade structure, additional tees, artificial turf, and a short game practice area.

The Golf Center is an important recreational facility in the City and while the facility is in excellent physical condition, maintained and managed at high standards, the facility is not solvent. There is increased competition with nearby golf facilities, and nationwide the golf industry has experienced a significant downturn, which has been intensified by the overall economic slowdown. The recent bad weather has added to the poor performance of the facility.

Despite careful management and economies of scale achieved through VB Golf's successful operation of three other golf facilities in the Bay Area, Fremont Park has not been achieving positive cash flow; 2011 revenues are projected to be under \$850,000 and the 2011 rent expense is projected to be \$209,000. VB Golf has stated this is unsustainable and that they can no longer operate under the current rent structure.

Proposed Amendment to the lease: VB Golf has requested the following rental fee reduction and change in operating hours for the golf course:

- Rent would be reduced to \$90,000 per year (\$7,500 per month) for three years beginning July 15, 2011. At the end of three years, the rent will be the greater of \$90,000 per year or 10% of gross revenues.
- Incorporate an option to close the golf course between the dates of November 1 and May 1 each year. The driving range will remain open year round.
- Maintain these terms through the end of the lease in 2024.

VB Golf has stated that without the proposed changes to the lease, they will have to close the Golf Center. The subsequent consequences of breaking the lease are significant. They have been actively looking for a buyer for the last two years, and have been unable to find a party that is willing to assume the lease with the current financial conditions. Given this fact, it is unlikely that the City would be able to secure a vendor through a Request for Proposals that would sustain the current rent structure.

Evaluation of proposed lease amendments and alternatives: Staff has reviewed the proposal and believes the City has the following three options:

- 1) Amend the lease to incorporate a new rent structure
- 2) Pursue an RFP upon default of the current operator
- 3) Assume operations of the Golf Center upon default of the operator

Amend the lease: The rent structure was based on a study conducted by Economics Research Associates (ERA) in 2000. The report detailed market data based on surveys of local similar-sized golf courses to project operating revenues and annual rounds of play. Both were key factors in establishing the baseline for rent. Annual green fees were projected by ERA to be about \$800,000 with 55,000 rounds of golf played. VB Golf's highest year (2002) was 26,186 rounds, with 2010 being their lowest at 18,318 rounds played.

ERA's study was based on a turnover rate of 1.5 hours per round of golf. Due to the difficult nature of the course, the average round takes 2.25 hours to play. The revised maximum capacity of yearly rounds is approximately 35,000. A good rule of thumb is to calculate projected actuals at 75-80% of maximum capacity (26,250- 28,000).

ERA's recommended rent structure equated to 10-13% of gross revenues depending on the yearly performance. VB Golf is projecting 2011 gross revenues to be \$850,000. The minimum rent recommendation of \$90,000 for the next three years and then 10% of gross or \$90,000 (which ever is greater) falls within the initial rent structure recommendations of the ERA study.

Pursue Request for Proposals: This would require VB Golf to default on the lease, while remaining obligated to pay monthly base rent and CPI increases until the end of the term in 2024. VB Golf representatives have been very forthright with staff about their financial challenges. With initial purchase costs and improvements, the VB Golf owners have a total of over \$3.9 million invested in the golf facility, and have not received any interest payments or return on their capital. While VB Golf has been candid about actively pursuing interested buyers for the Golf Center, there has been no interest by an experienced and qualified golf course professional. VB Golf believes that restructuring the rent will either make them solvent, or allow them to find a qualified buyer that can continue to operate a golf course in Fremont.

Assume Operations: Staff looked into the feasibility of running the Golf Center through the Recreation Cost Center, and was unable to develop a profitable model that operated both the golf course and driving range. The golf course expenses outstripped the driving range's profitability.

If the Cost Center closed the golf course and operated only the driving range, the potential net operating revenues range is \$75,000-\$125,000 per year. Staff does not recommend pursuing this option. It would result in the closure of the golf course and yield approximately the same revenue as the revised rent structure with a significant investment of staff resources.

FISCAL IMPACT: The proposed fiscal year 2011/12 budget projects that the Recreation Cost Center will contribute \$497,000 into the Operating Improvement Reserves. The current golf course rent is a significant amount of the year end projection. Despite the economic downturn, overall Cost Center revenue has managed to increase over the last three years. Initial signs for 2011 are very positive as the economy continues to recover. Amending the lease will reduce the Cost Center's projected contribution into the Operating Improvement Reserves to \$378,000. The Cost Center will continue to have a positive bottom line with the reduction in Golf Course lease revenue.

*(The fund balance is projected to be at \$4.1 million (including required reserves) at the end of FY 2010/2011).

ENVIRONMENTAL REVIEW: N/A

ENCLOSURE: [Exhibit A: Fremont Park Historical Revenue and Rounds](#)

RECOMMENDATION: Amend the VB Golf IV, LLC lease to revise the current rental fee structure for the Fremont Park Golf Center. The new rental fee structure would become effective July 15, 2011.

Further, staff recommends the City Council approve the option for an annual closure of the golf course only for the period of November 1 through May 1.

***2.10 ANIMAL FANCIER'S PERMIT APPEAL TO COUNCIL**

Appeal of an Animal Fancier's permit (Bees-Chickens) denial in accordance with Fremont Municipal Code Title 1, Chapter 5

Contact Person:

Name:	Howard Russell #1991	Craig T. Steckler
Title:	Police Sergeant Animal Services Administrator	Chief of Police
Dept.:	Police Department	Police Department
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Executive Summary: Appellant Russell Shaffer applied for and was denied an Animal Fancier's permit to keep two bee hives and six chickens on his residential property in Centerville located at 37071 Contra Costa Avenue. The Animal Services Superintendent denied the permit for the bees because he was unable to make the finding required by Fremont Municipal Code (FMC) Section 3-5902 (2) that the keeping of the bees would not endanger persons in the immediate vicinity and would not constitute a nuisance.

FMC Section 3-51100 provides that a person aggrieved by a decision applying the City's animal control ordinance, including the denial of an Animal Fanciers Permit, may appeal the decision to the City Council under FMC Title 1, Chapter 5. Mr. Shaffer timely appealed the denial of the permit to the City Council as required by these appeal provisions. Staff recommends that the City Council deny the appeal and not grant the Animal Fancier Permit for the bee hives.

ENCLOSURE: None.

RECOMMENDATION: Postpone this item to September 20, 2011 at the request of the appellant.

6.1 Report Out from Closed Session of Any Final Action

7.1 ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

Consideration of Ordinance to “Opt in” to an Alternative Voluntary Redevelopment Program under ABx1 27, the Voluntary Program Act

Contact Person:

Name:	Elisa Tierney	Harriet Commons
Title:	Redevelopment Agency Director	Director
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Executive Summary: Between June 28 and June 30, 2011, the Governor approved the State Budget for FY 2011/12, and signed a number of implementing trailer bills, including ABx1 26 (the “Dissolution Act”) and ABx1 27 (the “Voluntary Program Act”). Effective at the time of enactment, the impact of these bills is to suspend a redevelopment agency’s ability to issue debt or enter into new obligations until October 1, 2011, at which time the Redevelopment Agency would be dissolved unless the City enacts an ordinance to participate in the Voluntary Redevelopment Program and make certain required contributions to local schools and special districts. If the City enacts such an ordinance, then the Redevelopment Agency will continue to be subject to existing rules and regulations in the California Community Redevelopment Law. Among other things, issuance of tax allocation bonds to fund construction of the Irvington BART station could proceed, and 20% of tax increment revenues would continue to be set aside in the Housing Fund for Low and Moderate Income Housing purposes.

BACKGROUND: Between June 28 and June 30, 2011, the Governor approved the State Budget for FY 2011/12, and signed a number of implementing trailer bills. Two of these trailer bills significantly modify the California Community Redevelopment Law (“CRL”) and fundamentally alter the future of California redevelopment: ABx1 26 (the “Dissolution Act”) and ABx1 27 (the “Voluntary Program Act”) (together, the “Redevelopment Restructuring Acts”). The Dissolution Act first immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies, effective October 1, 2011. The Voluntary Program Act then allows redevelopment agencies to avoid dissolution under the Dissolution Act by opting in to an “alternative voluntary redevelopment program” (the “Voluntary Program”) that requires annual contributions to local schools and special districts.

Both the California Redevelopment Association (“CRA”) and the League of California Cities (“League”) have strongly indicated their intent to challenge the validity and constitutionality of the Redevelopment Restructuring Acts in court. CRA and the League will petition to have their lawsuit heard initially by the California Supreme Court to accelerate the ultimate court decision, and to seek a court “stay” or injunction to prevent the Redevelopment Restructuring Acts from being operative pending the final court decision on the merits of the lawsuit. It is not known at this time when the litigation might be filed (although it is anticipated to occur soon), or when this matter will be resolved. The legislation took effect upon the Governor’s signature.

DISCUSSION/ANALYSIS: Dissolution Act. The Dissolution Act immediately suspends and prohibits most redevelopment activities. Accordingly, redevelopment agencies are no longer authorized to do the following:

- Incur new indebtedness or other obligations or restructure existing indebtedness and other obligations
- Make loans or grants
- Enter into contracts
- Amend existing agreements, obligations or commitments
- Renew or extend leases or other agreements
- Transfer funds out of the Low and Moderate Income Housing Fund
- Dispose of or transfer assets
- Acquire real property
- Cause development or rehabilitation of housing units

The above is only a partial listing. This suspension and prohibition of most redevelopment activities is intended, to the maximum extent possible, to preserve the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations (generally, bonds and existing contracts with outside third parties) may be used by local governments to fund core governmental services, including police and fire protection services and schools. With limited exceptions, the Dissolution Act expressly states that enforceable obligations do not include agreements, contracts or arrangements between a redevelopment agency and the city or county that created the redevelopment agency.

If a redevelopment agency has not opted into the Voluntary Program by October 1, 2011, it will be dissolved and a successor agency will be created. The successor agency will be the sponsoring community of the redevelopment agency (in this case, the City of Fremont), unless it elects not to serve in that capacity. In that case, the successor agency will be the first taxing entity that submits to the County Auditor-Controller a duly adopted resolution electing to become the successor agency. The actions of the successor agency will be monitored, and in some cases approved, by an oversight board. The oversight board will consist of seven members appointed by (and representing) the following:

- County Board of Supervisors (two members)
- Mayor (one member)
- County Superintendent of Education (one member)
- Chancellor of California Community Colleges (one member)
- Largest special district taxing entity (one member)
- A former redevelopment agency employee appointed by the Mayor/Board of Supervisors (one member)

The Dissolution Act also includes a provision lengthening the period to challenge redevelopment agency actions taken after January 1, 2011, from ninety days to two years. If a redevelopment agency is dissolved pursuant to the Dissolution Act, the sponsoring community may not establish a new redevelopment agency until all debts of the dissolved redevelopment agency have been retired by the

applicable successor agency, and the sponsoring community has enacted an ordinance agreeing to make the payments required under the Voluntary Program.

Alternative Voluntary Redevelopment Program Act. To avoid being dissolved and to lift the suspension of new redevelopment activities and indebtedness under the Dissolution Act, a redevelopment agency and its sponsoring community may elect to continue operating under the current CRL if they make specified payments to their County Auditor-Controller beginning in FY 2011/12 and in all succeeding years the redevelopment agency's redevelopment program continues to operate. Once a sponsoring community enacts the appropriate opt-in ordinance, its redevelopment agency will no longer be subject to the provisions of the Dissolution Act and may immediately recommence normal redevelopment activities under the CRL, such as entering into contracts, disposing of assets, and incurring new indebtedness and obligations.

The remittances are technically required to be made by the redevelopment agency's sponsoring community on behalf of the redevelopment agency. Remittances may be made from any available funds of the sponsoring community, including funds made available by its redevelopment agency, as follows:

- A redevelopment agency and its sponsoring community may enter into an agreement whereby the redevelopment agency transfers a portion of its tax increment to the sponsoring community in an amount not-to-exceed the required annual remittance.
- For FY 2011/12 only, a redevelopment agency will be exempt from making its full deposit into the Low and Moderate Income Housing Fund (and not required to repay unmade deposits), but only to the extent that it makes a finding that there are insufficient other monies to meet its debt and other obligations, current priority program needs, or its obligations to reimburse the sponsoring community for that year's remittance.
- The remittances payable by a sponsoring community and its redevelopment agency participating in the Voluntary Program are due in equal installments each fiscal year by January 15 and May 15.

Remittances received by the County Auditor-Controller from a participating redevelopment agency/sponsoring community will be distributed, as follows:

- Through a special district allocation fund, a minor portion of FY 2011/12 remittances (and thereafter 15% of annual remittances) will be distributed to special districts that provide fire protection services to the participating redevelopment agency's project areas, and transit districts that serve the redevelopment agency's project areas.
- Through the Educational Revenue Augmentation Fund (ERAF), the balance of all remittances will be distributed to school entities that serve the participating redevelopment agency's project areas.

The Voluntary Program is designed to generate \$1.7 billion for FY 2011/12 and \$400 million in each subsequent year if every sponsoring community/redevelopment agency agrees to participate. The formula for calculating each sponsoring community/redevelopment agency's share is similar, but not

identical, to the formula used to calculate each redevelopment agency's share of the statewide \$1.7 billion and \$350 million Special Educational Revenue Augmentation Fund (SERAF) obligations in FYs 2009/10 and 2010/11, respectively. The State Department of Finance will provide information about the FY 2011/12 amount for each sponsoring community/redevelopment agency by August 1. The CRA has done the calculations for each sponsoring community/redevelopment agency, and Seifel Consulting (the Agency's fiscal consultant) has done the calculations specifically for Fremont. Both calculations yielded essentially the same amount of \$9.1 million for FY 2011/12. In subsequent years, the opt-in amount is estimated to be roughly \$2.1 million (subject to increase under a complicated formula to the extent the Agency incurs new non-Housing Fund debt or other obligations on or after October 1, 2011).

If a sponsoring community/redevelopment agency fails to make a remittance, the redevelopment agency will become subject to the Dissolution Act and will be dissolved. While the sponsoring community is technically the party paying the remittances, the primary sanction to the sponsoring community for failure to make a remittance is dissolution of its redevelopment agency. In addition, any agreement between the sponsoring community and its redevelopment agency to receive redevelopment agency funds will be assigned to the State. Therefore, the sponsoring community's General Fund and other funds are not at risk if it fails to make a remittance, but the sponsoring community might forego repayments owed by its redevelopment agency that would be diverted to the State to make up for the missed remittance payments.

FISCAL IMPACT: Staff has reviewed the accounts of the Redevelopment Agency and has identified an estimated \$16.2 million in non-Housing Fund unappropriated fund balance at June 30, 2011. Additional funds may become available from project savings and close-outs. Therefore, it appears there are sufficient resources currently available to make the opt-in payment of \$9.1 million in FY 2011/12 without seeking an exemption from the normal 20% Housing Fund deposit.

In reviewing projections for years beyond the current fiscal year, it appears, based on very conservative tax increment growth assumptions, sufficient funds will be available to continue to make the opt-in payments in future years, in addition to providing resources to make the Agency's pass-through payments to other taxing entities, to set aside 20% of tax increment for Low and Moderate Income Housing needs, to pay debt service on the Irvington BART station tax allocation bonds, and to fund a portion of other non-Housing Fund projects in accordance with the Agency's current work plan schedule (some other projects may need to be delayed or foregone). Staff is developing priorities for Agency Board consideration to enable the highest priority non-Housing Fund projects to continue with no or only modest delay. If tax increment grows at a higher rate than that used in the projections, more resources would be available for projects sooner.

If the City were to choose not to opt in, the Agency will not be able to continue any of its existing projects (essentially all activities are suspended between now and October 1, 2011, at which time the Agency would be dissolved). The tax allocation bonds for construction of the Irvington BART station would not be able to be issued, and the Agency would no longer receive its 20% allocation of tax increment for Low and Moderate Income Housing purposes. If the Agency is dissolved, approximately \$3.5 million in additional property tax revenue would become available to the City's General Fund each year. While this means more unrestricted resources would be available to fund City operations, it would mean the loss of dedicated resources to fund affordable housing needs, other redevelopment projects

would not be able to proceed, and there would be no funding available for construction of the Irvington BART station.

Therefore, staff believes using the leverage of the Redevelopment Agency will provide benefits to the community that the City would not otherwise be able to fund, and recommends that the City Council adopt an ordinance to opt in to the Voluntary Program.

ENVIRONMENTAL REVIEW: The review and action taken by the City Council is exempt under Section 15378(b)(4) of the California Environmental Quality Act (CEQA) in that the activity is not defined as a “project,” but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The appropriate environmental review will be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program. A Notice of Exemption will be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

ENCLOSURE: [Draft ordinance](#)

RECOMMENDATION: Introduce an ordinance to elect and implement participation by the City of Fremont and the Redevelopment Agency of the City of Fremont in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of the California Community Redevelopment Law.

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
July 19, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 6, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 13, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 20, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 27, 2011		No Council Meeting		
October 3, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
October 4, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 11, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 18, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 25, 2011		No Council Meeting		
November 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 15, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 22, 2011		No Council Meeting		
November 29, 2011		No Council Meeting		